

REMARKS

The Applicants and Applicants' attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action. The Office Action, mailed April 2, 2007, considered and rejected claims 26-30. Claims 31-49 were added to the application in Amendment B, filed March 26, 2007; however, claims 31-49 were not considered. Consideration of claim 31-49 is requested.

Claims 26, 29 and 30 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Cutler et al.* (U.S. Patent No. 6,761,667), and claims 27 and 28 were rejected as being unpatentable over *Cutler et al.*¹ Furthermore, claim 29 was rejected under 35 U.S.C. § 112, second paragraph. By this paper, claims 26, 29 and 38 have been amended, and claim 50 has been added.² Accordingly, following this paper, claims 26-50 are pending. Claims 26, 39, 45 and 50 are the only independent claims at issue with claim 26 being the only independent claim which has been considered.

Rejections Under 35 U.S.C. § 102

As noted previously, and as further detailed on pages 2-3 of the Office Action, independent claim 26 was rejected under 35 U.S.C. § 102(e) as being anticipated by *Cutler et al.* By this paper, claim 26 has been amended. Applicants submit that *Cutler et al.* fails to anticipate the limitations recited with respect to claim 26.

Cutler et al. fails to disclose each and every limitation recited with respect to claim 26. Specifically, *Cutler et al.* fails to disclose a treadmill, as defined in claim 26, comprising a lift

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the various claim amendments and new claim can be found throughout Applicant's original application, including at least the disclosure in paragraph [018-022 and 030] of the originally filed application and in the figures.

motor assembly pivotally coupled on a first end to a support base, and pivotally coupled on an opposite end to one portion of a cam, a second portion of the cam being pivotally linked to the support base, the first portion of the cam being positioned beneath the second portion of the cam when the treadbase is in a horizontal position, as recited in claim 26. Accordingly, Applicants request reconsideration and removal of the rejection under 35 U.S.C. § 102(e) to claim 26.

Rejections Under 35 U.S.C. § 112

In the third Office Action, claim 29 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

By this paper, claim 29 has been amended. Specifically, the wording "moveable element" has been replaced with "treadbase" in claim 29. Accordingly, Applicants request reconsideration and removal of the rejection under 35 U.S.C. § 112, second paragraph to claim 29.

Claim 27-30 depend from base claim 26 and thus incorporate all the limitations recited therein. Accordingly, reconsideration and allowance of claims 27-30 are hereby requested.

New Claim

By this paper, claim 50 has been added. Support for this claim can be found in the original claims and the specification, including paragraph [030]. Applicants submit that the references fail to anticipate or obviate the limitations recited with respect to new claim 50. Consideration and allowance of claim 50 are hereby requested.

Conclusion

By this paper pending claims 26, 29 and 38 have been amended. Claims 26-50 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 4 day of September 2007.

Respectfully submitted,

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